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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,138	09/23/2003	Indukumar G. Shah	MCP-5013	7577
27777	7590	11/02/2007		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER HUYNH, CARLIE K	
			ART UNIT	PAPER NUMBER
			1617	
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			11/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/671,138	Applicant(s) SHAH ET AL.	
	Examiner Carlic K. Huynh	Art Unit 1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of applicants' amendments and remarks filed on August 13, 2007 is acknowledged.

Status of the Claims

1. Claims 1-13 are pending in the application, with claims 8-13 having been withdrawn from consideration, in response to the restriction requirement filed on January 17, 2007. Accordingly, claims 1-7 are being examined on the merits herein.

Response to Arguments

2. Applicant's arguments, see "Amendment-After Non-Final Rejection" filed on August 13, 2007, with respect to Rejections under 35 U.S.C. § 102 to claims 1-6 has been fully considered and are not found persuasive. Applicants have argued that Tencza et al. do not teach "a disintegrant from the group selected from sodium starch glycolate, crosslinked polyvinylpyrrolone, crosslinked carboxymethylcellulose, and mixtures thereof". Examiner disagrees because Tencza et al. teach polyvinylpyrrolone (see page 11). Thus, the Rejections under 35 U.S.C. § 102(b) to claims 1-6 have been maintained.

3. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection. The following new ground(s) of rejection to amended claims 1-7 are used herewith.

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Claims 1-7 are directed to a solid pharmaceutical dosage form and thus intended use is not given any patentable weight.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Tencza et al. (CA 1,336,687 as cited in the IDS).

Tenzca et al. teach caffeine and acetaminophen tablet compositions (abstract). The caffeine is uncoated and granular with a particle size between 20 mesh to 100 mesh (pages 11 and 23). It is noted that a mesh size of No. 20 is equivalent to 841 microns and a mesh size of No. 100 is equivalent to 149 microns. The caffeine and acetaminophen tablet also comprises a disintegrant, such as crospovidone XL-20 (see page 9; and page 15, example 1). It is noted that crospovidone is well known in the pharmaceutical arts as crosslinked polyvinylpyrrolidone. The tablet is made via compression (page 23). The acetaminophen is granular (page 23).

For these reasons the claimed subject matter is deemed to fail to patentably distinguish over the state of the art as represented by the cited reference. The claims are therefore properly rejected under 35 U.S.C. 102 (b).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tencza et al. (CA 1,336,687 as cited in the IDS).

Tencza et al. is applied in a similar fashion as in the rejection to claims 1-6 above.

Tencza et al. further teach 80% of the caffeine in their caffeine composition tablet dissolves within 5 minutes using a USP paddle apparatus rotated at 50 rpm (figure 1 and pages 20-21). It is noted that Tencza et al. have adapted a dissolution rate such that at least 75% of the caffeine-acetaminophen tablet dissolves in under 45 minutes (page 21).

Thus, the limitations of the instant claim 7 is met because it would be obvious that at least 95% of the caffeine in the caffeine composition tablet of Tencza et al. would be dissolved within 5 minutes since the reference teaches that at least 75% of the caffeine-acetaminophen tablet dissolves in under 45 minutes.

Conclusion

6. No claims are allowed.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlic K. Huynh whose telephone number is 571-272-5574. The examiner can normally be reached on Monday to Friday, 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreenivasan Padmanabhan can be reached on 571-272-0629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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ckh

S. Wang

SHENGJUN WANG
PRIMARY EXAMINEE